



U.S. Department of Justice

Civil Rights Division

Office of the Assistant Attorney General

Washington, D.C. 20530

Governor George Nigh
Office of the Governor
State Capitol
Oklahoma City, Oklahoma 73105

MAY 2 1986

Dear Governor Nigh:

As you are aware, pursuant to our meeting in Oklahoma City on January 26, 1986, wherein you and other state officials briefed me on the substantial improvements achieved in recent months at Pauls Valley State School ("PVSS"), as part of our continuing investigation of that facility under the Civil Rights of Institutionalized Persons Act ("CRIPA"), I directed my staff to revisit PVSS to confirm whether current conditions had improved and in order to facilitate our evaluation of PVSS. Staff attorney Mitchell Dale toured the facility on April 14, 1986, and I am writing to inform you of the results of his review.

The conditions which I advised you on September 17, 1985, as in need of improvement in order to satisfy constitutional minima fell into the following areas:

- (1) minimally adequate training to ensure that PVSS residents are free from undue risks to their personal safety;
- (2) a sufficient number of competent and qualified staff to provide adequate care and necessary medical attention to the PVSS residents; and
- (3) prescription and review of behavior management drugs.

In assessing current conditions in these areas, Mr. Dale reviewed numerous residents' treatment and training program plans, obtained information as to current staffing levels and in-service training of staff, and assessed current procedures for the prescription and monitoring of psychotropic medications. In addition, he interviewed several staff and consultants in the areas of nursing, physical therapy, psychological, and psychiatric care. Our findings are as follows:

Resident Training - Residents at PVSS are entitled under the Constitution to such training as will reasonably enable them



to be free from undue physical restraint and undue risks to their personal safety, Youngberg v. Romeo, 102 S.Ct. 2452 (1982). In our judgment, such levels of training are now being provided to the residents of PVSS who need them.

Physical restraints are not employed at Pauls Valley State School, and staff are trained in non-aggressive behavioral intervention techniques. To address residents' aggressive and self-injurious behaviors, training programs are designed by appropriate and properly trained staff. Each of the patient records reviewed contained program plans prepared by a team of interdisciplinary professionals at the facility. Programs for those residents who suffer behavioral deficiencies and/or are administered psychotropic medications are formulated with considerable input from staff psychologists and an outside consulting psychiatrist. I should note that since we issued our initial notice of findings letter in May 1983, the number of staff psychologists at PVSS has doubled, and psychology services have been substantially improved in the past year through the hiring of a supervisor of psychology services and a Ph.D. psychologist with specialized training in mental retardation and developmental disabilities.

Treatment programs are reviewed monthly by the interdisciplinary team, a medical review committee, and, for those residents with behavioral modification plans, by the Behavior Therapy Committee, which is made up of the consulting psychiatrist, the PVSS ombudsman, one member of the PVSS administration, a psychologist, and a representative of the dietary and social work staffs.

To improve implementation of residents' training programs, once a program is designed or modified, the psychology staff provides formalized "in-service" training to direct care staff (Resident Life Staff Aides) in the content of the residents' plan (e.g., instruction in feeding skills, fine/gross motor development, behavior therapy, physical therapy, language board training, etc.) and procedures required for its implementation.

The special education programs provided at Murray Hall also appear to have improved considerably. Partitioned classrooms have been constructed to reduce the noise and other distractions caused by having numerous small groups of residents engaged in several programs at one time. PVSS also has hired a special education instructor to supervise the 13 special education "trainers" at Murray Hall. This individual, who is a qualified mental retardation professional and has been specially certified by the State to provide special education programs to the mentally retarded and physically handicapped, also trains direct care staff on the

wards as to the residents' education program plans. When construction of the new activity building is completed this summer, PVSS will be able to further increase special education programming. PVSS also offers outside vocational rehabilitation services and educational programs at the Hilltop School under Public Law 89-313.

Since our initial notice of findings, resident training also has been improved through the hiring of additional social workers, speech and hearing therapists, recreational therapists and therapy aides, and through very substantial increases in in-service staff training.

Medical and Health Care and Medication Practices - In the areas of medical care and general health surveillance, PVSS has made significant improvements in recent months. Forty-two of forty-five authorized positions for registered and licensed practical nurses are filled. In May 1983, when we issued our original notice of investigative findings, wherein we noted that untrained direct care staff were given undue responsibility for general health surveillance, only twenty-two registered and licensed practical nurses were on staff.

In May 1983, and as recently as April 1985, our consultants found deficiencies in sanitation practices at PVSS. In late 1985, PVSS undertook a Hepatitis B screening of all PVSS residents, and by August 1986, all residents at Pauls Valley will have been inoculated against Hepatitis B. In addition, all staff have been trained in infection and communicable disease control, and new policies and procedures governing the handling of laundry have been issued.

In the area of physical therapy services, PVSS residents are now served by two full-time equivalent therapists and by five physical therapy assistants. In May 1983, the facility had no physical therapists and only two assistants. The physical therapy staff also train direct care staff in administering range of motion therapy and in the proper positioning of physically disabled residents. Although the facility continues to have difficulty in filling its remaining available staff position for a physical therapist, the provision of such therapy at PVSS is clearly adequate. Within the past several months, more than 30 new wheelchairs have been obtained, and an adaptive technology workshop has been established and equipped to construct, repair, and individually fit adaptive equipment on site. PVSS residents are now provided with all necessary adaptive equipment.

In the area of medication practices, in May 1983 we noted that the lack of psychologists to employ necessary

behavior modification training led to the unsafe overuse of psychotropic medications as a substitute for training programs. Further, the justification and documentation of medication practices were inadequate, and staff were untrained in assessing risks and benefits of such medications and in identifying harmful side effects. In addition, pharmacists did not participate in interdisciplinary team meetings or adequately monitor medication practices.

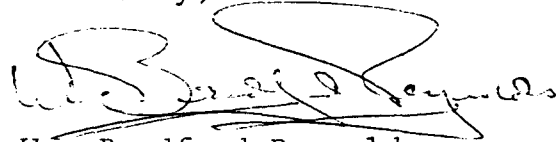
Today, these deficiencies have been corrected. Approximately 20 nurses have been trained as Certified Medicine Technicians and an additional 80 staff members have received in-service training in psychotropic medications and the use of the AIMS scale in screening monthly for tardive dyskinesia. The medication regimens for the roughly 120 residents on psychotropic medications are also reviewed by one of the two licensed pharmacists, and by the medical review committee (composed of nursing staff, direct care staff, and the outside psychiatric consultant), on a monthly basis. As a result of these procedures and the increase in behavioral programming, within the past year several PVSS residents have had their dosages of psychotropic medications reduced and some have been taken completely off such medications. These procedures and staff training now protect the residents from unsafe medication practices.

Since we issued our initial findings of constitutional violations at PVSS, the staff to patient ratio has increased by nearly one-third and the annual budget has increased by almost \$4 million. Educational programming for school-aged residents and training have increased substantially. Protective procedures and mechanisms for quality control are in place. Critical treatment staff have been added and, through increased staff training and support, the employees at PVSS appear to be infused with a renewed enthusiasm and commitment to serving the needs of the residents. You, Department of Human Services Director Robert Fulton, Assistant Director for Developmental Disability Services Jean Cooper, and the entire administration and staff at the facility are to be commended for these achievements which have wrought a fundamental improvement in the lives of the developmentally disabled residents of Pauls Valley State School.

In sum, we have determined that Pauls Valley State School now provides its residents with adequate levels of care. Although improvements remain to be achieved in certain areas, those areas do not constitute deficiencies actionable under CRIPA. We are hereby closing this investigation.

Again, I wish to thank you and the leadership and employees of the Department of Human Services and PVSS for your cooperation in this matter.

Sincerely,

A handwritten signature in black ink, appearing to read "Wm. Bradford Reynolds". The signature is written in a cursive style with a large, looping initial "W".

Wm. Bradford Reynolds
Assistant Attorney General
Civil Rights Division

cc: William S. Price
United States Attorney